

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHRISTOPHER B LOONEY,

Petitioner,

V.

## ELDON VAIL.

## Respondent.

CASE NO. C09-5238 RBL-JRC

## ORDER TO SHOW CAUSE

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner filed the petition pursuant to 28 U.S.C. § 2254.

The Court stayed this petition and held it in abeyance in May of 2009, so that petitioner had the opportunity to exhaust a second personal restraint petition that contained what petitioner referred to as “his final claim.” (ECF No. 7 (motion to stay), and 8 (order granting motion)).

Petitioner has filed timely status reports and the Court has repeatedly extended the stay. In August of 2011, petitioner informed the Court that his state court proceedings were stayed

1 pending a ruling in a state court case, *In re Coats* Washington State Supreme Court cause  
2 number 83544-6 (ECF No. 18). In March of 2012, petitioner informed the Court that *In re Coats*  
3 had been decided and the stay in his state proceedings had been lifted (ECF No. 20).

4 In October of 2012, petitioner informed the Court that the Washington State Court of  
5 Appeals had dismissed his personal restraint petition as time barred (ECF No. 22). Petitioner  
6 avers that he filed a timely motion for discretionary review (ECF No. 22).

7 Petitioner filed his eighth status report on May 8, 2013 (ECF No 24). Petitioner states that  
8 his motion for discretionary review has been stayed pending a ruling in another case, *In re*  
9 *Toledo-Sotelo*, Washington State Supreme Court cause number 85377-1. Petitioner informed the  
10 Court that the Washington State Supreme Court decided *In re Toledo-Sotelo* on February 21,  
11 2013. Petitioner claims he moved to lift the stay in his case on March 25, 2013. Petitioner claims  
12 that the Washington State Supreme Court Clerk denied his motion because a motion to  
13 reconsider is pending in *In re Toledo-Sotelo* (ECF No. 24).

14 The Court orders that on or before **July 5, 2013**, petitioner will provide this Court with a  
15 copy of the Washington State Supreme Court Clerk's March 25, 2013 correspondence that  
16 continues his state court action. The Court will make a decision whether to stay this action again  
17 after receiving petitioner's response to this order or after the deadline for compliance has past. If  
18 petitioner's case is decided in the state court, petitioner has thirty days to inform this Court of  
19 that decision.

20 Dated this 12<sup>th</sup> day of June, 2013.

21   
22 J. Richard Creatura  
23 United States Magistrate Judge  
24